

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CIVIL ACTION NO. 5:15-CV-00044-GCM-DCK**

TIMOTHY WALTER SHEW,

**Plaintiffs,**

**v.**

CAROLYN COLVIN,

**Defendants.**

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**ORDER**

**THIS MATTER** is before the Court upon cross motions for summary judgment filed by Plaintiff, Timothy Walter Shew, and Defendant, Commissioner of Social Security, Carolyn Colvin. Plaintiff filed his Motion for Summary Judgment (Doc. No. 11) and Memorandum in Support (Doc. No. 12) on August 3, 2015. Defendant filed her Motion for Summary Judgment (Doc. No. 13) and Memorandum in Support (Doc. No. 14) on September 29, 2015. On June 15, 2016, Magistrate Judge David Keesler issued a Memorandum and Recommendation, recommending that Plaintiff's Motion be denied, Defendant's Motion be denied, and the Commissioner's decision be vacated. (Doc. No. 15) Objections were due on July 5, 2016. For the reasons set forth below, the Court **ACCEPTS and ADOPTS** the Memorandum and Recommendation.

The Federal Magistrate Act provides that "a district court shall make a de novo determination of those portions of the report or specific proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); *Canby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983). "By contrast, in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the

record in order to accept the recommendation.”” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72, Advisory Committee Note). Here, no party filed an objection to the Memorandum and Recommendation, and the time for doing so has expired.

Accordingly, after a careful review of the record in this case, the Court finds that the Magistrate Judge’s findings of fact are supported by the record and his conclusions of law are consistent with and supported by current case law. Thus, the Memorandum and Recommendation is hereby **ACCEPTED and ADOPTED**. Plaintiff’s Motion for Summary Judgment is **DENIED**, Defendant’s Motion for Summary Judgment is **DENIED**, and the Commissioner’s decision is **VACATED and REMANDED**.

**SO ORDERED.**

Signed: July 14, 2016

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

